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STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			STRANGE, AARON N	
			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/628,352

Applicant(s)

NODA ET AL.

Examiner

Aaron Strange

Art Unit

2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-8 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-8 and 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

AD

DETAILED ACTION

Claim Objections

1. Claim 5 is objected to because of the following informalities: There appears to be a typographical error "different i chat" in line 15. Appropriate correction is required.

Response to Arguments

2. Applicant's arguments filed 3/3/2005 have been fully considered but they are not persuasive.
3. With regard to claim 5, and Applicant's assertion that the claimed invention provides "a plurality of different correlated avatar operation instructions that correspond to a specific event to operate the avatars linked to or installed in the chat device destinations" (Page 10, Lines 1-4 of Remarks), it is noted that such a limitation does not appear in the rejected claims. At no point in the present claims does the term "avatar" appear, and the claims merely state that the instructions "correspond to a plurality of different chat device destinations to operate image representations and/or physical representations of chat participants", which is far more broad in scope than operation of avatars alone. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. With further regard to claim 5, and Applicant's assertion that Suzuki fails to disclose "a plurality of ... different correlated operation instructions that correspond to the predetermined event ... to operate image representations and/or physical representations of chat participants that are linked to or installed in the chat device destinations" (At least Page 10, Lines 11-16 of Remarks), the Examiner respectfully disagrees.

Applicant acknowledges that Suzuki updates a virtual space scene that an avatar is observing based upon movement of other avatars in the virtual space (Page 11, Lines 7-8 of remarks), but asserts that this is different from the claimed invention. The Examiner respectfully disagrees with this assertion. A virtual space scene that an avatar is observing is an image representation of chat participants, and Suzuki discloses operation instructions to operate the image representation.

Therefore, Suzuki discloses a plurality of different correlated operation instructions that correspond to the predetermined event to operate image representations and/or physical representations of chat participants that are linked to or installed in the chat device destinations.

5. With further regard to claim 5, and Applicant's assertion that the claimed present invention operates a character (an image or physical representation) linked to or installed in the chat device destinations by detecting a change in a virtual channel that includes a plurality of users", it is noted that such a limitation does not appear in the rejected claims. No limitations currently present in the rejected claims recites operation

Art Unit: 2153

of a character or detecting a change in a virtual channel. While an image or physical representation may encompass a character, it is clearly not limited to being a character. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

6. With regard to claim 1, Applicant asserts that "claim 1 is allowable based on the same rationale for independent claims 5 and 10-12". Since Applicant's arguments with respect to claims 5 and 10-12 were not persuasive, Applicant's arguments with respect to claim 1 are unpersuasive for the same reasons as those discussed above.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 5-8 and 10-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. With regard to claim 5, the limitation "predetermined different correlated operation instructions that correspond to the predetermined event, the plurality of predetermined different correlated instructions correspond to a plurality of different chat

Art Unit: 2153

device destinations" is unclear. It is unclear if the instructions are correlated to both the destinations and the events or if some other relationship is intended. It appears that there may be a typographical or grammatical error, but the claim is unclear.

10. Claims 10-12 recite a substantially identical limitation to the one discussed above regarding claim 5, and are rejected for the same reasons.

11. All claims not individually rejected are rejected by virtue of their dependency from the above claims.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 5, 7, 8, and 10-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (US 5,736,982).

14. In referring to claim 5 and 10-12, Suzuki shows a server controlling the display of avatars on each respective terminal depending of each avatars position and viewing point in a virtual space (see abstract). Suzuki show:

An association table (figure 7, 12E, fig. 5 53A, 53B) that relationally stores a predetermined event (movement vectors) occurring in a chat space with participating chat devices, and a plurality of predetermined different correlated operation instructions that correspond to the predetermined event (move instructions) (Col 5, Lines 34-49), the plurality of predetermined different correlated operation instructions correspond to a plurality of different chat device destinations to operate image representation of chat participants that are installed in the chat device destinations (views of all chat participants are updated when others move) (col. 5 lines 50-col. 6 lines 21),

A chat event detector detecting a predetermined event in the chat space, based on the association table (col. 6 lines 1-6, detecting which avatars are moving, have moved into or moved out or a respective avatars viewing space),

an operation instruction determiner determining the plurality of the different operation instructions for the detected event, based on the association table (col. 8 lines 15- col. 9 line 16, fig. 9a-9f, not all users having the same viewing point, therefore each user receiving a different instructions to display their specific viewing point of the virtual space and the movements therein),

a destination determiner determining the corresponding plurality of the different chat device destinations to be transmitted the determined plurality of the different operation instructions; based on the association table (fig. 5, 53A, 53b, see also col. 8

line 15- col. 9 line 16 for representation of different viewing points of each user within a virtual space),

a transmitter transmitting the determined plurality of the different operation instructions via a chat system to determined corresponding chat device destinations to operate the image representation of the chat participant that are installed in the chat device destinations (col. 5 lines 50-67).

15. In referring to claim 7, Suzuki shows a controller selecting a plurality of operations instructions that correspond to the events (movement) in the chat space to operations the image representations of the chat participants, based on predetermined conditions when the plurality of the operation instructions occur with the same chat device as a chat device destination, and sending the selected plurality of the operation instructions to the same chat device (col. 9F, col. 9 lines 5-10, plurality of avatars in view).

16. In referring to claim 8, Suzuki shows:

Image representations of chat participant are installed in one of the chat devices, the destination determiner determines on the plurality of the image representations of the chat participant to operate from among the image representations of the participant, based on the detected event (col. 7 lines 15-45, based on movement server determines display avatars in eyes view),

The transmitter sends a determined operations instruction including a specification of the image representations of the chat participant to the corresponding chat device destination to operate therein the specified image representation of the chat participant (col. 8 lines 15- col. 9 line 16, fig. 9a-9E shows various view points).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shiiro et al. (US 5,491,743) in view of Suzuki et al. (US 5,736,982).

Shiiro shows a virtual conferencing system having a method for displaying animated characters representing attendants of the virtual conference. The animated characters operate according to indicated actions of a user in the virtual conference (see abstract). In referring to claim 1 Shiiro shows:

Installing in the chat devices image representations of chat participants that can be operated according to predetermined operation instructions received by the chat device via the network from a chat administrator (fig. 10 item 17) of the chat space of the chat devices (col. 1 lines 53- col. 2 line 19, figure 5 item 20-1- 20-k).

Art Unit: 2153

Detecting by the chat administrator a predetermined event occurring within the chat space of the chat devices (col. 6 lines 31-60, col. 2 lines 27-37, Shiio shows events like raising hand, request to talk, and movement).

Determining at the chat administrator a plurality of different operation instructions for operating the representations of the chat participants installed in the chat devices, based on the detected event (fig. 10, item 17, and col. 11 lines 15-45, different operation instructions for controlling volume of speech relative to position col. 9 lines 1-13).

Determining at the chat administrator different chat device destinations corresponding to the determined plurality of the different operation instructions for operating the representations of the chat participants installed in the different chat device destinations (col. 11 lines 35-45, determining positions of characters in relation to each other in order to determine volume of speech to be sent to each destination).

Sending by the chat administrator the predetermined plurality of different operation instructions via the chat system to determine corresponding different chat device destinations to operate the representations of chat participants installed in the different chat device destinations (col. 11 lines 35-45, sending audio based on position).

Although Shiio shows substantial features of the claimed invention, while Shiio does shows different instructions for operating the volume of speech of each animated character, there is no specific instructions for determining different instruction to operate the *image* of the animated character. Nonetheless this feature is well known in the art,

and would have been an obvious modification to the system disclosed by Shiio, as evidenced by Suzuki.

In an analogous art, Suzuki shows a virtual space having avatars. A server controls the display of avatars to each respective terminal depending of each avatars position and viewing point (see abstract). The server functions to properly display all avatars (a2-a5) and respective events, such as movement, in the line of site of a respective avatar (a1) (see figure 18). The server sends each respective terminal having an avatar (a1-a6), different image representation of each avatar in the virtual space (see fig. 9a-9f, col. 1 line 57- col. 2 line 13, col. 15 lines 49-60). Suzuki also discloses a plurality of predetermined different correlated operation instructions that correspond to the detected event (move instructions) (Col 5, Lines 34-49) for operating the image representations of chat participants that are installed in the chat device destinations (views of all chat participants are updated when others move) (col. 5 lines 50-col. 6 lines 21).

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Shiio to employ the feature shown by Shiio in order to have a more real-life representation of a shared space by using a user's eye movement through a virtual space to detect events in the virtual space.

19. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shiio and Suzuki in view of knowledge well known in the art.

Art Unit: 2153

Shiio shows a table having sender ID and receiver ID. Although address information is not explicitly shown, a person of ordinary skill in the art would realize that sender and receiver could be identified by their respective addresses. Shiio further shows a detecting time of event in a virtual space by detecting contending requests. Contending requests are requests by two or more users to of a shared application to perform the same event, like request to speak or use the chalkboard. Although the time of each event is not sent to the determined destinations, a person of ordinary skill in the art would have realized the feature in order to track the time an event happened in a history log for later reference such for play back or transcript records.

20. Claims 6 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of knowledge well known in the art.

21. In referring to claim 6, Suzuki shows a table having avatar identifiers (fig. 8, col. 7 lines 30-41). Although address information is not explicitly shown, a person of ordinary skill in the art would realize that sender and receiver could be identified by their respective addresses. Suzuki further shows a detecting time of event in a virtual space (col. 5 lines 45-51). Although the time of each event is not sent to the determined destinations, a person of ordinary skill in the art would have realized the feature in order to track the time an event happened in a history log for later reference such for play back or transcript records. Examiner hereby takes official notice on the above points as being well known in the art at the time the invention was made.

22. In referring to claim 13, Suzuki show chat event detector for detecting predetermined events from among a plurality of association table events comprising participants in the chat space (fig. 8), withdraw from the chat space (fig. 5, 53B, showing participants not in view), and no statement or movement has been made in a specified time (col. 6 lines 55-58). Although Suzuki shows substantial features of the claimed invention, Suzuki does not show number of chat participants exceeds a predetermined number, a change in mode of a topic, a statement of a chat participant nickname or name, chatting is frequent, and specifying a chat participant image representation. Nonetheless a person of ordinary skill in the art would have realized these features are well known events in a chat environment. Examiner hereby takes official notice on the above points as being well known in the art at the time the invention was made.

23. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki in view of Shiio.

Although Suzuki shows substantial features of the claimed invention, Suzuki does not show detecting overlapping events. Nonetheless this feature is well known in the art, and would have been an obvious modification to the system disclosed by Suzuki as evidenced by Shiio.

In an analogous art Shiio shows a virtual conferencing system for displaying animated characters within a virtual space (see abstract, fig. 7) Shiio shows a method for handling a plurality of events which occur at the same time as overlapping events,

wherein the operation instruction determiner processes the detected overlapping events according to a specified event processing method (col. 9 line 61- col. 10 line 13).

Given this feature, a person of ordinary skill in the art would have readily recognized the desirability and advantages of modifying the system shown by Suzuki to employ the feature shown by Shiio, in order to effectively communicate in a virtual space with other user in real world manner which allows users to take turns speaking, thereby allowing everyone in a virtual space to heard.

24. In referring to claim 15, Shiio shows overlapping events executed sequentially according to priority (col. 9 lines 65- col. 10 line 5).

25. In referring to claim 16 and 17, Shiio shows selection criteria for selecting one of a plurality of the detected overlapping events (col. 9 lines 61- col. 10 line 39) according to:

If same event occurs within a specified time period, ignoring second and subsequent occurrence of the same event (col. 9 line 65- col. 10 line 1, lower priority event is not executed in preference for higher priority event),

Selecting a first event within a specified time (selecting event with higher priority),

Selecting one of the detected overlapping events according to a priority assigned to each event in the association table (col. 10 lines 14-23).

Conclusion

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron Strange whose telephone number is 571-272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2153

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AS
6/3/2005



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